



# **Export Inspection Charges (Miscellaneous Amendments) Act 1985**

**No. 115 of 1985**

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# **Export Inspection Charges (Miscellaneous Amendments) Act 1985**

No. 115 of 1985

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## **An Act to amend the *Export Inspection Charge Act 1985* and the *Export Inspection Charge Collection Act 1985***

[Assented to 21 October 1985]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### **PART I—PRELIMINARY**

#### **Short title**

1. This Act may be cited as the *Export Inspection Charges (Miscellaneous Amendments) Act 1985*.

#### **Commencement**

2. This Act shall come into operation on a day to be fixed by Proclamation.

### **PART II—AMENDMENTS OF THE EXPORT INSPECTION CHARGE ACT 1985**

#### **Principal Act**

3. The *Export Inspection Charge Act 1985*<sup>1</sup> is in this Part referred to as the Principal Act.

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**Short title**

4. Section 1 of the Principal Act is amended by omitting “*Charge*” and substituting “(*Quantity Charge*)”.

**Collection Act**

5. Section 3 of the Principal Act is amended by omitting “*Charge*” and substituting “*Charges*”.

**Interpretation**

6. Section 4 of the Principal Act is amended—

- (a) by omitting from sub-section (1) all the definitions from and including the definition of “dairy produce” to the end of the sub-section; and
- (b) by adding at the end of sub-section (2) the following paragraphs:
  - “(d) the level of inspection that is applicable to the prescribed commodity under export control orders;
  - “(e) whether an approval of a quality control system plan is in force under export control orders in relation to the prescribed commodity.”.

**Imposition of charge**

7. Section 6 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “sub-section (2)” and substituting “this section”;
- (b) by inserting after sub-section (1) the following sub-sections:
  - “(1A) Sub-section (1) does not apply to a prescribed commodity in respect of which an export permit is granted if—
    - (a) the commodity is certified on or after the day on which regulations made for the purposes of sub-section 6 (1) of the *Export Inspection (Service Charge) Act 1985* specifying the commodity came into force; and
    - (b) in a case where the commodity is inspected by an authorised officer—the certification is based wholly or partly on an inspection that commenced on or after that day.

“(1B) For the purposes of sub-section (1A), a prescribed commodity shall be taken to be certified when an authorised officer certifies on the notice of intention to export the prescribed commodity that the authorised officer is satisfied, or has reasonable grounds to believe, that the export control orders that apply to the commodity have been complied with.

“(1C) For the purposes of sub-section (1A), where a notice of intention to export prescribed commodities is given and an authorised officer, either before or after the notice is given, inspects some of those commodities for the purpose of determining whether to grant

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an export permit authorising the export from Australia of all those commodities, the authorised officer shall be taken to have inspected all of those commodities for that purpose.

“(1D) Sub-section (1) does not apply to a prescribed commodity in respect of which an export permit is granted if—

- (a) another export permit has previously been granted in respect of the commodity, whether or not that other permit was also granted in respect of another commodity;
- (b) that other export permit has been accidentally lost or accidentally destroyed; and
- (c) the first-mentioned export permit was granted by way of replacement of that other export permit.

“(1E) Sub-section (1) does not apply to—

- (a) meat;
  - (b) meat products;
  - (c) edible game offal;
  - (d) game meat;
  - (e) game meat products;
  - (f) poultry meat;
  - (g) poultry meat products;
  - (h) rabbit meat; or
  - (j) rabbit meat products.”; and
- (c) by adding at the end the following sub-section:

“(3) A reference in this section to a notice of intention to export prescribed commodities is a reference to a notice of the kind referred to in section 6 of the *Export Control Act 1982*.”.

### **PART III—AMENDMENTS OF THE EXPORT INSPECTION CHARGE COLLECTION ACT 1985**

#### **Principal Act**

8. The *Export Inspection Charge Collection Act 1985*<sup>2</sup> is in this Part referred to as the Principal Act.

#### **Title**

9. The title of the Principal Act is amended by omitting all the words after “imposed by” and substituting “the *Export Inspection (Establishment Registration Charge) Act 1985*, the *Export Inspection (Quantity Charge) Act 1985* and the *Export Inspection (Service Charge) Act 1985*”.

#### **Short title**

10. Section 1 of the Principal Act is amended by omitting “*Charge*” and substituting “*Charges*”.

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**Commencement**

**11.** Section 2 of the Principal Act is amended by omitting all the words after “on” and substituting “1 July 1985”.

**12.** Section 3 of the Principal Act is repealed and the following sections are substituted:

**Interpretation**

“3. (1) In this Act, unless the contrary intention appears—

‘authorised agent’ means the person appointed by a person under subsection 8 (1) to be the authorised agent of the last-mentioned person;

‘authorised officer’ has the same meaning as in the *Export Control Act 1982*;

‘authorised person’ means a person who is, by virtue of an appointment made under section 14, an authorised person for the purposes of the provision in which the expression appears;

‘charge’ means—

- (a) establishment registration charge;
- (b) quantity charge; and
- (c) service charge;

‘dairy produce’ means milk and includes milk products;

‘dried fruit’ means fruit from which part of the natural moisture content has been removed by means of evaporation or dehydration and includes dried fruit products;

‘dried fruit product’ means a product one of the major components of which is dried fruit;

‘edible game offal’ means the—

- (a) liver;
- (b) kidney; or
- (c) heart,

of a game animal that has been separated from the carcase of the animal;

‘egg product’ means a product one of the major components of which is eggs or a constituent part of eggs;

‘eggs’ means eggs of hens of the species *Gallus gallus* or any other species, or class of species, of bird, that is prescribed for the purposes of this definition and includes egg products;

‘establishment’ means an establishment that is registered for operations associated with the preparation of prescribed commodities;

‘establishment registration charge’ means the charge imposed by the *Export Inspection (Establishment Registration Charge) Act 1985*;

‘export control orders’ means orders or regulations made under the *Export Control Act 1982*;

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‘export permit’ means a permit of that name provision for the granting of which is made for the purposes of section 7 of the *Export Control Act 1982* in export control orders;

‘exporter’, in relation to a prescribed commodity, means the person in whose name an export permit in respect of that prescribed commodity is granted;

‘fish’ means—

(a) the whole of an aquatic animal; or

(b) a part of an aquatic animal other than the shell of the animal where the shell has been separated from the remainder of the animal,

whether alive or dead, processed or unprocessed and includes fish products, but does not include the whole, or any part, of an aquatic mammal;

‘fish product’ means a product one of the major components of which is fish;

‘fruit juice’ means the unfermented juice of fruit, whether or not that juice contains a food additive, and includes the pulp of fruit and fruit juice concentrate;

‘fruit product’ means a product one of the major components of which is a fruit or a constituent part of a fruit but does not include fruit juice;

‘game animal’ means a wild animal, other than a bird or rabbit, that has been killed in its habitat by a shot from a firearm;

‘game meat’ means any part of a game animal, other than edible game offal, intended for human consumption;

‘game meat product’ means a food that has been processed beyond boning, slicing or trimming, other than soup, that is suitable for human consumption, being a food that—

(a) has been prepared from game meat or edible game offal; or

(b) contains in excess of 5% by mass of game meat or edible game offal;

‘grain’ means—

(a) the grain of wheat, oats, barley or sorghum or of any other cereal that is prescribed for the purposes of this definition; and

(b) the seeds of lupins or field peas or of any other leguminous plant that are prescribed for the purposes of this definition;

‘meat’ and ‘meat product’ have the same respective meanings as in the *Meat Export Charge Act 1984*;

‘milk product’ means a product one of the major components of which is milk or a constituent part of milk;

‘poultry’ means domesticated fowl, ducks, geese or turkeys;

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**'poultry meat'** means a part of poultry that is intended for human consumption;

**'poultry meat product'** means a food that has been processed beyond boning, slicing or trimming, other than soup, that is suitable for human consumption, being a food that—

- (a) has been prepared from poultry meat; or
- (b) contains in excess of 5% by mass of poultry meat;

**'preparation'**, in relation to prescribed commodities, includes—

- (a) the slaughter or killing of animals, or the dressing of carcasses, from which prescribed commodities are obtained;
- (b) the processing, packing or storage of prescribed commodities;
- (c) the treatment of prescribed commodities; or
- (d) the handling or loading of prescribed commodities;

**'prescribed commodity'** means—

- (a) dairy produce;
- (b) eggs;
- (c) fruit (other than fresh fruit);
- (d) fruit juice;
- (e) fruit products;
- (f) fish;
- (g) grain;
- (h) meat;
- (j) meat products;
- (k) edible game offal;
- (m) game meat;
- (n) game meat products;
- (o) poultry meat;
- (p) poultry meat products;
- (q) rabbit meat;
- (r) rabbit meat products;
- (s) vegetables (other than fresh vegetables);
- (t) vegetable juice; or
- (u) vegetable products;

**'prescribed office'** means an office of the Department, being an office that is prescribed for the purposes of this Act;

**'quantity charge'** means the charge imposed by the *Export Inspection (Quantity Charge) Act 1985*;

**'rabbit'** includes a hare;

**'rabbit meat'** means a part of a rabbit that is intended for human consumption;



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‘rabbit meat product’ means a food that has been processed beyond boning, slicing or trimming, other than soup, that is suitable for human consumption, being a food that—

- (a) has been prepared from rabbit meat; or
- (b) contains in excess of 5% by mass of rabbit meat;

‘registered occupier’, in relation to an establishment, means the person in whose name the establishment is registered;

‘Secretary’ means the Secretary to the Department;

‘service charge’ means the charge imposed by the *Export Inspection (Service Charge) Act 1985*;

‘vegetable juice’ means the unfermented juice of vegetables, whether or not that juice contains a food additive, and includes the pulp of vegetables and vegetable juice concentrate;

‘vegetable product’ means a product one of the major components of which is a vegetable or a constituent part of a vegetable but does not include vegetable juice.

“(2) A reference in this Act to the registration of an establishment is a reference to the registration of an establishment in accordance with export control orders and includes a reference to the renewal of the registration of an establishment in accordance with export control orders.

**Provision of export inspection service**

“3A. For the purposes of this Act, where an authorised officer attends an establishment in connection with the *Export Control Act 1982* or export control orders, an export inspection service shall be taken to have been provided at the establishment during the attendance unless the attendance is of a kind declared by the regulations to be an attendance to which this section does not apply.

**Act to bind Crown**

“3B. This Act binds the Crown in right of each of the States, of the Northern Territory and of Norfolk Island.”.

**Date due for payment**

13. Section 4 of the Principal Act is amended—

- (a) by inserting “quantity” before “charge”;
- (b) by omitting “on the expiration” and substituting “at the end”; and
- (c) by adding at the end the following sub-sections:

“(2) The amount of service charge in respect of the provision of an export inspection service is due for payment at the end of 28 days after the last day of the month in which the service was provided.

“(3) The amount of establishment registration charge in respect of the registration of an establishment is due for payment on the day on which the registration comes into force.”.

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**Manner of payment**

**14.** Section 5 of the Principal Act is amended—

- (a) by omitting “payable to the Commonwealth under this Act in relation to” and substituting “of quantity charge on”;
- (b) by inserting “referred to in section 6” after “return”; and
- (c) by adding at the end the following sub-sections:

“(2) The payment of an amount of service charge in respect of the provision of an export inspection service shall be made at the prescribed office at which the return referred to in section 6A relating to the service is lodged.

“(3) The payment of an amount of establishment registration charge may be made at any prescribed office.”.

**Returns in respect of quantity charge**

**15.** Section 6 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “, being a prescribed commodity or prescribed commodities in respect of which quantity charge is imposed,” after “commodities” (first occurring); and
- (b) by inserting in sub-paragraph (2) (c) (v), paragraph (2) (d) and sub-sections (3) and (5) “quantity” before “charge” (wherever occurring).

**16.** After section 6 of the Principal Act the following section is inserted:

**Returns in respect of service charge**

“6A. Where an export inspection service was provided at an establishment during any month, being a service in respect of which service charge is imposed, the registered occupier of the establishment shall submit a return to the Secretary in respect of that month containing the following particulars:

- (a) the full name and address of the registered occupier;
- (b) the name of, and registration number allotted to, the establishment;
- (c) the days of the month on which export inspection services were provided at the establishment;
- (d) the periods during which those services were provided on those days;
- (e) the rate of service charge applicable to the establishment;
- (f) the total amount of service charge for which the registered occupier became liable during that month.”.

**Execution and lodgment of returns**

**17.** Section 7 of the Principal Act is amended by adding at the end the following sub-section:

“(2) A return referred to in section 6A—

- (a) shall be signed—
  - (i) where the registered occupier of the establishment is a natural person—by that person or the authorised agent of that person;

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- (ii) where the registered occupier of the establishment is a body corporate—by the person who manages or controls the operations of the body corporate in relation to the establishment, or by the authorised agent of that body corporate; and
  - (iii) where the registered occupier of the establishment is a body politic—by the person having responsibility for the administration of such of the affairs of the body politic as relate to the operation of the establishment, or by the authorised agent of the body politic; and
- (b) shall be submitted to the Secretary by lodging it at a prescribed office within 28 days after the last day of the month to which the return relates.”.

**Authorised agents**

**18.** Section 8 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “An exporter” and substituting “A person”;
- (b) by omitting from sub-section (1) “sub-section 6 (1)” and substituting “section 6 or 6A”;
- (c) by omitting from sub-section (1) “the exporter’s” and substituting “the first-mentioned person’s”; and
- (d) by omitting from paragraph (2) (b) “exporter” and substituting “person who appointed the agent”.

**Records to be kept**

**19.** Section 9 of the Principal Act is amended—

- (a) by inserting after sub-section (1) the following sub-section:

“(1A) A registered occupier of an establishment shall, in respect of the provision of export inspection services at the establishment, keep, or cause to be kept, such records as will enable the registered occupier to prepare such returns as are required to be provided by the registered occupier under section 6A.”;

- (b) by omitting from sub-section (2) “shall be retained by the exporter” and substituting “or (1A) shall be retained by the exporter or registered occupier, as the case may be,”; and
- (c) by omitting from sub-section (2) “granted” and substituting “granted or the export inspection service was provided, as the case may be”.

**Offences relating to returns, &c.**

**20.** Section 10 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) A person is not excused from submitting a return or providing information that the person is required by or under this Act or the regulations to submit or provide on the ground that the return or information might

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tend to incriminate the person, but any return or information so submitted or provided is not admissible in evidence against the person in—

- (a) criminal proceedings other than proceedings for an offence against sub-section (1) or (3); or
- (b) proceedings for recovery of a penalty payable under section 11.”.

**Penalty for non-payment**

21. Section 11 of the Principal Act is amended by inserting in sub-section (3) “payable before any remission” after “amount” (last occurring).

**Export permits not to be granted if charge unpaid**

22. Section 12 of the Principal Act is amended—

- (a) by inserting in paragraph (b) “quantity” before “charge”; and
- (b) by adding at the end the following sub-section:

“(2) Where a person has not paid the amount of any establishment registration charge or service charge by the day on which that amount is required, under section 4, to be paid, no export permit shall be granted to the person until that amount of charge, and the penalty (if any) payable in respect of the late payment of that charge, has been paid in full.”.

23. After section 12 of the Principal Act the following section is inserted:

**Export control orders may require establishment registration charge to be tendered**

“12A. Without limiting the generality of the matters with respect to which export control orders may be made, export control orders may provide that an establishment, or an establishment included in a specified class of establishments, shall not be registered unless the applicant for registration tenders the amount of the establishment registration charge (if any) payable in respect of the registration.”.

**Access to premises**

24. Section 15 of the Principal Act is amended by inserting “the provision of an export inspection service, to” after “relating to” in the definition of “examinable documents” in sub-section (10).

25. After section 16 of the Principal Act the following section is inserted:

**Powers to make export control orders imposing fees not affected by charge**

“16A. The imposition of charge does not affect the power to make export control orders relating to the imposition of fees in connection with the performance of services by authorised officers.”.

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**NOTES**

1. No. 26, 1985.
2. No. 27, 1985.

*[Minister's second reading speech made in—  
House of Representatives on 22 August 1985  
Senate on 16 September 1985]*